

for The Defense



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The Training Newsletter for the Maricopa County Public Defender's Office ~ Dean Trebesch, Maricopa County Public Defender

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DODGING THE STRAY BULLET: MALPRACTICE AND DEAF/HARD OF HEARING DEFENDANTS

By Jamie McAlister
Deputy Public Defender

You've got a deaf or hard of hearing client? I hope you are scared to death because you are looking malpractice right in the face. From the moment I first set foot in this valley, some five years ago, I have been besieged by deaf and hard of hearing prison inmates

claiming that justice had not been done in their case because no one - not the police, prosecutor, defense counsel, judge or jury - knew and appreciated the practical, functional, and social consequences of hearing impairment. The frightening thing to me was finding that most of these claims proved to be true. The most egregious case I've come across happened right here in Maricopa County. In one case, the defendant's lawyer actually argued to the Arizona Supreme Court that to punish a deaf man for rape violated the defendant's first amendment right to free speech. This was so because as a deaf person the defendant used his body with which to communicate. The attorney suggested that the rape was merely the defendant's way of telling the victim that he was upset with her. Thus, the rape was protected speech and was constitutionally protected from government encroachment. The Court laughed so hard that it forgot to address the real issues in the case. More troubling, however, is that the defendant is serving 14 years flat in a case where there was good evidence that a rape had never occurred. But the lawyer didn't know about that evidence because he used an interpreter who was not qualified and she made material errors in translation. Believe me, a lawyer who takes on a client who is a deaf or hard of hearing criminal defendant and fails to bring to his/her representation an understanding of hearing impairment is a lawyer who is a malpractice suit waiting to happen.

There are a whole lot of things that we have to know about our deaf or hard of hearing clients. We have to begin by understanding that just about everything we think we know about deaf and hard of hearing people is dead wrong. Such as:

1. **We don't see many deaf and hard of hearing clients.** Wrong. Ten percent of the American population is hearing impaired - approximately 26 million. Of those 26 million, two million are deaf. Of all disabilities known to humanity, more people experience hearing impairment than any other disability.

(cont. on pg. 2)

The prison population, however, does not track the rate of impairment in the greater population. A 1979 study surveyed the incidence of communication impairment in the prison population. It determined that an average of 25 to 35 percent of the prison population examined had communication impairments -- the vast majority experienced hearing impairments. Are hearing impaired people incarcerated at a higher rate than non-hearing impaired people because their disability prevents them from adequately assisting their lawyers during plea negotiations or at trial (competence)? Or, does their lawyers' ignorance regarding the practical and social consequences of hearing impairment cause their higher rate of incarceration (ineffective assistance of counsel)? Maybe it is six of one and half a dozen of the other.

2. Yelling loud enough will make sure that my client understands me right? Wrong. Yelling, or for that matter, whispering, only makes it impossible to speechread what is being said. Besides, volume is usually not a major problem. Today's technology permits amplification levels that were only dreamed of ten years ago. A total inability to hear anything regardless of the level of amplification is very rare. Even those who self-identify as deaf can usually be aware of sound if the amplification is loud enough. Sometimes it has to be very loud. For example, my hearing aid is set to amplify at 120 db (decibels) -- that's a lot of sound. A jet engine registers in at 150 db, a heavy metal band (and most other bands for that matter)

comes in at 120 db, normal speech is between 35 to 55 db. Anything louder than 95 db can and does cause permanent damage to the hearing nerve. (If you experience "ringing" in your ears after exposure to loud sound, it is an indication of temporary or permanent damage. Keep exposing yourself to loud sounds and I will be welcoming you into my world sometime in the future.)

Don't make the mistake of thinking that hearing aids are relatively benign. Those of us who have to use the "power" hearing aids are in a catch-22 situation. Without the aid, we are not aware of any environmental sounds. With the aid, damage to our hearing continues to progress and the level of amplification that is needed can cause substantial fatigue and actual physical pain.

The one real problem with hearing impairment, however, is with comprehension. When we hear a sound

Are hearing impaired people incarcerated at a higher rate than non-hearing impaired people because their disability prevents them from adequately assisting their lawyers during plea negotiations or at trial?

do we recognize the sound? A hearing impairment means that both volume and comprehension are damaged. A person can have a small volume loss -- needing only mild to moderate amplification -- but at the same time can experience a severe comprehension loss resulting in functional deafness. On the

other hand, a person can have a massive volume loss with only a very small comprehension loss and, with a hearing aid and enough amplification, can be functionally hearing. Thus, using an auditory assistive listening device (i.e., hearing aids, infrared systems, other kinds of amplification systems) may not ensure that our clients understand what is being said.

3. My client wears a hearing aid so everything is okay, right? Wrong. A hearing aid only amplifies sound. It does not improve comprehension. If our client has only a little comprehension damage, a hearing aid will be of real assistance. But, if our client has severe comprehension damage, a hearing aid will only allow him or her to be aware of environmental sounds. He or she will still need additional accommodation to ensure effective communication.

Moreover, hearing aids amplify every sound. They cannot discriminate between sounds; they cannot select which sounds to amplify and which not to amplify. This means that in rooms where there are extraneous sounds, those sounds can cover up or mask what is being said. For example, something as simple as shuffling feet or rustling paper can prevent a hearing aid user from understanding what is said from the bench.

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4. All well and good, but my client lipreads perfectly. Sorry, wrong again. No one lipreads perfectly. The better term, here, is speechread - the act of determining what is said by interpreting movements of the mouth, face, and body in the context of the environment and subject of discourse. Speechreading is not very efficient. Under ideal conditions, only 30% of a word is visible on the mouth. Speechreading is actually speech speculation -- educated speech speculation, but speculation nonetheless. In a social context, speechreading is acceptable because nothing of any real importance is occurring. In a legal proceeding, whether in court or just a conversation with one's lawyer, the stakes are too high for speculation. Competent representation implies that we communicate effectively with our clients. Moreover, our clients have certain rights that are inevitably violated in those situations where we cannot communicate properly -- the right of confrontation and effective assistance of counsel spring immediately to mind.

5. Okay, if I cannot communicate verbally with my client, then we can write and pass notes back and forth. That will work! Wrong once again. The average deaf high school graduate reads English at a third to fourth grade level. Even those deaf individuals who grew up oral, with English as their primary language, will have some problems with standard English. (By the way, the Miranda warnings are written at the sixth grade level.) Do not make the mistake of thinking that American Sign Language (ASL) is English. It is not English. ASL is as different from English as is German.

Those individuals who became deaf as adults or those very special few who were born deaf and still gained fluency in English can rely on written English. Notes (or equivalent through the computer) and real-time captioning are appropriate for them.

6. So, lipreading and writing notes won't work with my client. I'll just get an interpreter and that will fix the problem once and for all. Maybe yes, maybe no. Just as not all deaf persons have the same communication modality, so too, not all interpreters are qualified to handle any interpreting assignment. (You should contact the Office of Court Interpreters to arrange for an interpreter).

There are two kinds of interpreters: oral interpreters and sign language interpreters. Oral interpreters are for those individuals who wish to rely upon speechreading for their communication needs (against the advice of counsel, of course). Sign language

interpreters are for those individuals who use some type of sign language.

Many different sign languages exist. Each country has developed its own distinctive sign language: Mexican Sign Language, German Sign Language, Russian Sign Language, etc. There is no universal sign language. In the United States, the deaf population generally uses one of three kinds of sign language: American Sign Language, Pigeon Signed English, and Signed English.

The majority of deaf signers will use American Sign Language (ASL). IT IS A FOREIGN LANGUAGE. It is not English. It has its own syntax and grammar. It is a conceptual language whereas English, on the other hand, is an analytical language. A conceptual language does not easily translate into an analytical language and vice versa. It is impossible to use both languages at the same time.

Pigeon Signed English (PSE) is ASL sign in English word order. (This is the one I use.) PSE also borrows from Signed English. It is a true creole language and is rapidly spreading throughout the deaf community.

Many deaf individuals can use PSE competently. Others cannot.


Signed English is a manual form of English and includes formal English grammar, i.e., prefixes, suffixes, endings, commas,

etc. It is much slower than ASL or PSE. It is usually used only in educational settings.

Signing skill is not the only consideration. Interpreters may also be called on to "voice." Many deaf individuals can speak in a way that hearing people can understand. Those who cannot will also need the interpreter to "voice," i.e., translate the person's signs into verbal English.

When we call OCI and ask for an interpreter we have got to know (and pass on to OCI) the following: whether the person wants an oral or sign interpreter; if the person wants a sign interpreter, whether the person needs ASL, PSE or Signed English; and whether the person requires the interpreter to "voice" for him or her. So, you have the following choices:

Oral interpreter, no voicing
Oral interpreter, voicing
ASL interpreter, no voicing
ASL interpreter, voicing
PSE interpreter, no voicing

(cont. on pg. 4) 

PSE interpreter, voicing
Signed English interpreter, no voicing (rare)
Signed English interpreter, voicing (rare)

How do we know what kind of interpreter we need? First, ask the client. He or she is the expert in the matter. Second, take a look at the interpreter's certification. If the interpreter does not have a CSC or CI/CT certification from the Registry of Interpreters for the Deaf, don't use him or her even if OCI provided him or her. Third, be very clear with the interpreter that you require strict adherence to the RID Code of Ethics with particular emphasis on his or her duty of confidentiality. Fourth, check frequently with the client to make sure that the interpreter is clear and easy to understand. Ask open ended questions -- not "yes"/ "no" questions -- that elicit comprehensive answers so that you can evaluate whether the client understands what is being said. Fifth, consider videotaping any interviews that are undertaken with an interpreter. You can have the videotape reviewed later to check whether the interpretation was accurate.

7. Making sure that communication is effective is really the only unique concern presented by hearing impaired clients, right? Wrong, of course. Problems will also crop up in the events surrounding the investigation of the crime and the arrest.

I suspect that when we learn everything there is to know about our universe, we will come to understand that one immutable law of the universe is that when a hearing impaired person is investigated and subsequently arrested by law enforcement, his or her constitutional rights have been violated. (This is a slam dunk, folks). First, the police almost always will speak with everyone involved in the incident except for the hearing impaired person. It is an easy thing to blame the "deafy" because he or she has no means of knowing what is being said and, if unable to speak in a way that hearing people can understand, has no way to let the police know his or her side of the story. Inevitably, this results in an incomplete and flawed investigation. Take for example a situation between two men, one deaf and one hearing, who were pounding away at each other (as in aggravated assault) at the time the police arrived at the scene. The officer discovers that he or she cannot speak to the deaf person, so the investigation is restricted to the hearing individual. Guess who gets charged with aggravated assault?

Second, the deaf person may be penalized for his or her inability to follow orders. Contemplate, for example, what can happen when a deaf person is given a

breathalyzer test. How does one know when he or she has given a sufficient sample? Ah, the machine beeps, signaling that it has enough. What if you cannot hear the beep? Want to bet that the deaf person will stop blowing too soon? If our new client did that more than once you can be sure that the police will claim that he or she refused the test. Speaking of DUIs, and in the context of field sobriety tests, did you know that all deaf or hard of hearing individuals have substantial problems with balance? And, depending on the cause of their deafness, they may well have non-alcohol related nystagmus.


Further problems crop up when it becomes necessary to psychologically evaluate hearing impaired individuals. Those individuals who became deaf after they attained fluency in English can usually be evaluated in the same way and using the same professionals as other clients. Those who became deaf before they attained fluency in English present an entirely different scenario.

First, of course, is the language problem. Only one psychologist in this state is fluent in ASL. Her name is Dr. Nancy Eldridge in Tucson, Arizona. All others require services of an interpreter. It is well-known that the presence of a third party, at the time of the interview and evaluation, alters client performance that can substantially affect the formal diagnosis or opinion.

Second, the use of a visual language directly affects the development of one's cognitive skills, reasoning abilities and judgment. Simply put, this means that the average prelingual deaf person has a world view and an understanding of social expectations and institutions that can differ radically from the world view expected of the average person. Many psych evaluators have made serious errors in diagnosis because they were not aware of developmental differences existing between prelingual deaf people and hearing people.

Third, most psych evaluators don't know that prelingual deaf people do not share the same set of social and cultural expectations that are shared by the majority of hearing people. Our values and morals, i.e., our law-abiding behavior, is usually taught through what is called "incidental learning." We learn our values by overhearing our parents talk about what's right or wrong, or by watching a television show, or reading the newspaper, or relating to friends and peers. Deaf people do not have access to incidental learning.

[M]ost psych evaluators don't know that prelingual deaf people do not share the same set of social and cultural expectations that are shared by the majority of hearing people.

(cont. on pg. 5) 

Ninety percent of all deaf people are born to hearing families. Only ten percent of these hearing families ever achieve any skill in ASL/PSE/SE. The large bulk of deaf kids are unable to talk to their own brothers, sisters, and parents. Very few churches provide sign language interpreters. Television closed-captioning is at a sixth grade level. Newspapers are written at an eighth grade level. The vast majority of deaf kids will read at a fourth grade level upon graduation from high school. They cannot communicate with hearing children who might alert them to the rules. Schools do not provide classes in Behavior 101: Rules of Behavior. All this means that prelingual deaf people have no exposure to the kind of incidental learning that teaches values, morals, or culturally acceptable behavior. That deaf people attain any understanding of the larger community is a major miracle in and of itself. But, we are left with the nagging suspicion that to expect prelingual deaf people to conform their behavior to social expectation (in the sense of being presumed to know the law) is a factual impossibility.

Probably the best example of this problem rests with those cases where a prelingual deaf person is charged with child molest or other sexual misconduct. The great bulk of prelingual deaf people grow up in schools for the deaf. Four year old kids live in the same dorms as eighteen year old high school seniors. Inevitably, sexual contact occurs -- sometimes it occurs between older teenagers and young kids of five or six. These deaf students have no access to anything that tells them that this behavior is not acceptable. Schools do not address the behavior in any way. The kids grow up thinking that old-young (adult-child) sexual contact is normal. Guess what happens when they become adults?

Finally, prelingual deaf individuals form a "Deaf Culture" that carries all the identifying marks of a minority culture. Culture shapes one's behavior and mental processes. If an evaluator is clueless about an examinee's culture, the evaluator will likely make serious diagnostic errors. The only psychologist who has the training and experience to satisfactorily evaluate deaf and hard of hearing persons is Dr. Nancy Eldridge from Tucson. We have used her on several cases with good results. I can safely say that any other evaluator that is available to us right now is not qualified to properly evaluate prelingual deaf individuals. Dr. Eldridge can be contacted at (520) 622-4950.

8. **Is there more?** Sure! This article has just skimmed the surface. When you get a deaf or hard of hearing client, the first thing to do is call me and discuss the issues this disability will present in the case. The

second thing to do is visit the following Internet sites and review the wealth of information that is available.

net.unl.edu/~nchi/deafhoh.html	(General)
www.gallaudet.edu/	(Gallaudet Univ.)
www.rit.edu/~418www/index.html	(RID site)
deafworldweb.org/	(General)
www.wsdeaf.wednet.edu/from_Amy/Deaf_Web_Resources	(General)
www.deaflibrary.org/	(BEST General)
www-hsl.mcmaster.ca/tomflem/deaf.html	(General)
www.nmhid.com/index.html	(General)
home.earthlink.net/~drblood/Index.html	(General)
voyager.rtd.utk.edu/~tsd/library/deaf.html	(General)
www.shhh.org	(Hard of hearing)


Prefix for all addresses: <http://>

CONCLUSION

More people are disabled by hearing impairment than by any other disability. Accommodation for hearing impairment costs more than accommodation for any other disability. It also is a disability that isolates, confuses, frustrates, and angers just about everyone confronted with it. In the criminal justice system, this disability is a time bomb. It can strip a person of all constitutional protection, it can inspire persecution of the innocent based on a state of being rather than conduct, and it can lead an attorney right down the path of malpractice. These warnings are not a matter of crying wolf. This article is not the last word. There's a whole bunch more we've got to know. ■

FROM THE PHOENIX DESK . . . TITLE 28 AMENDMENTS

By Gary Kula, Executive Director, City of Phoenix
Public Defender Contract Administrator's Office

On October 1, 1997, the Title 28 renumbering amendments went into effect. It took numerous committee members several years to rewrite Title (cont. on pg. 6) 

28 and accomplish something no one really wants or cares about. Not everyone, however, is skeptical about the value of this rewrite. The law book publishers have openly embraced this rewrite, as well as any other changes, as it necessitates the printing of updates and additional pocket parts.

The rewrite and renumbering was selective in scope such that many sections and subsections were not affected at all. This article will outline the basic framework of changes you are likely to encounter in Title 28 matters.

- The code numbers for financial responsibility offenses will be changing again effective January 1, 1998. The penalty for a first offense will also change in January with the fine becoming permissive rather than mandatory.

- The most commonly cited section of Title 28, speeding, in violation of A.R.S. § 28-702.01D, has been split in two. Subsection 28-702.01A will be cited where the driver is stopped for going 65 mph or less in a 55 mph zone. This subsection will be cited as a waste of finite resources with no points being assessed. Subsection 28-702.01C will apply when a driver is cited for going 66 mph or over in a 55 mph zone and points will be assessed.

- In order to assist the courts in dealing with the mistakes that are bound to happen due to the renumbering of Title 28 offense, Rule 9(d) has been added to the Arizona Rules of Procedure in Civil Traffic Violation Cases. It allows judicial officers to direct that the law code be changed to conform to the text without the necessity of a motion to amend being filed.

Rule 9(d) states:

If the judicial officer determines there is a conflict between the written description and the statutory designation of a civil traffic violation, the descriptive text shall take precedence unless the substantial rights of the defendant are prejudiced or such action would result in a criminal charge. In every case where there is such a conflict, if the judicial officer is unable to determine what offense was charged, the judicial officer shall dismiss the charge without prejudice and notify the issuing agency.

- In criminal traffic cases where a mistake is made as to correct statute section, the court cannot amend the charge without a motion.

- Most of our clients will have no idea as to whether the officer cited them with the correct code and section number. Many of them will just go ahead and register for and complete defensive driving school to keep it off their record. However, if MVD later determines that the wrong section was cited on the ticket, they will notify the traffic school to refund the client's money and no entry will be made in the MVD computer as to the ticket or traffic school. With the exception of the 8 hours your client wasted attending traffic school, no other consequences will follow from the ticket, and your client will remain eligible to attend traffic school in the future.

The attached chart was developed by the Title 28 rewrite committee to assist police officers, court staff and attorneys in understanding the Title 28 changes.

(Please see attachment) ■


TALES FROM THE FRONT: A GUIDE TO SURVIVING GUILTY PLEA ARRAIGNMENT COURT

By Margot Wuebbels
Deputy Public Defender

**Remember, an informed client
is a happy client.**


As many of you know, a new Guilty Plea Arraignment Court (GPAC) has been in operation for the past few months. Almost every matter on the calendar, with rare exception, is assigned to the Public Defender's Office and must be handled by the P.D. covering that calendar. There are at least one or two interpreter matters. As these circumstances suggest, it is very hectic in this court. In an effort to ensure that our clients get the best representation possible, and retain their positive opinion of our office, I suggest the following tips for success:

1. Please tell your client at Justice Court that while you will not be present at their guilty plea, you do still represent them. Many clients are disappointed when they show up to court and find that their attorney is not there. Spending a few extra minutes explaining this system to them will alleviate much of their angst and stress at GPAC. It also takes a lot of pressure off the attorney handling this calendar, since there is not enough time to give each client personal attention. Remember, give your clients your card - a lot of time is spent writing down attorneys' names and phone numbers.

(cont. on pg. 7) 

2. **Explain to your clients the differences between a preliminary hearing, guilty plea arraignment, and sentencing as well as what to expect at this court appearance.** Many clients appear at GPAC with no idea what is going to happen to them. Most days, the calendar is so packed there really is not adequate time for a proper explanation. This confusion, and lack of personal attention, heightens client dissatisfaction with our office and leads to further problems down the road. Remember, an informed client is a happy client.
3. **Please give your client a copy of the plea,** or, if you're so inclined, include an extra copy for your client in the file. Many attorneys already do this, and it is of great help to clients in their proceedings. Also, please make sure the copy in the file is legible, because the clients often have questions about specific terms and it is helpful if coverage attorneys can read the plea before attempting to give an explanation.
4. **Explain to clients in custody that they will NOT be released on this case at the GPAC.** Since there are no victims present, the commissioners usually will not consider release. Additionally, please note in your file the reason why your client is in custody so they can be reminded of their status, i.e., holds, denied release at JP Court etc. The only exception regarding release status is if they are sentenced to drug court (more on that later).
5. **Please send your files to records so they are available for court.** It is much easier to proceed with a file in hand.
6. **Please write in your factual basis.** There is no time in GPAC to read the DR's and determine what actually happened. The factual basis does not have to be elaborate - just date of crime, i.e., if drug paraphernalia, indicate whether it is a pipe or baggie, etc. Also, if your client is pleading to something unusual, (for example, an aggravated assault on drug charges) please note this in the file. There have been occasions where the wrong plea is signed. So if you are intentionally doing something wacky, please make a note of it. Do not rely on your client to explain this. They will invariably profess ignorance, in hopes their situation will get better.
7. **Continuances for clarification.** Cases are sometimes continued for a couple of weeks when clients have a lot of questions about their case. Please make every effort to meet with your client during this time and note the results of your meeting in the file so the coverage attorney knows how to proceed. Example: "client wants to plead not guilty" or "client wants to do guilty plea."
8. **No shows.** In GPAC, clients get one continuance if they fail to appear at their first setting. Records sends letters to all persons who fail to appear, to inform them of their next court date. Please try to get a current address for your client and note it in your file. Believe it or not, many FTA's do show up at their second court date.
9. **Plea negotiations.** As I often tell clients, GPAC is not the place to re-negotiate pleas. Please do not ask for additional stipulations on a plea, unless they have been cleared ahead of time. The County Attorney's Office sends the inexperienced prosecutors to cover these arraignments, and they are not in a position to make deals. So, unless you have made prior arrangements, the deal will not change.
10. **Sentencings.** Occasionally, clients can get sentenced at the same time they enter their plea agreement. This is frequently the case for people eligible for drug court. If you think your client may be eligible for drug court, and your client is interested in the drug court program, you should encourage them to go into drug court at the time of their guilty plea. (If you have questions about drug court or your client's eligibility, you can review Doug Passon's excellent article published in last month's newsletter). Being sentenced to drug court at the time of the guilty plea is beneficial to both you and your client. You are both spared an additional court appearance, and there is no presentence investigation done by a probation officer. If your client is determined to be ineligible at this juncture, but is still interested, you can still argue for drug court at the time set for sentencing in the Superior Court.

Finally, in certain circumstances (for example, where the sentence stipulated to is a prison sentence to be served concurrently with a defendant's existing prison sentence), the commissioner and your client may waive the presentence report and sentence the client immediately.

(cont. on pg. 8) 

This is especially beneficial to clients pulled out of DOC on charges that occurred prior to the charge on which they are currently incarcerated. (Remember when pre-indictment delay was illegal?) If you have a client in this situation, you should note it in the file so the attorney covering the guilty arraignment can facilitate your request on behalf of your client. ■

WAIVING ARRAIGNMENTS

By Nora Greer
Deputy Public Defender

Do your clients have trouble coming to court? Does the client live outside of Maricopa County or out of state? Does the client have a job and not want to take time off? Do they have the ubiquitous "transportation" problems? Attorneys can prevent bench warrants for these clients by waiving their appearance at not-guilty arraignments. The procedure is extremely easy as long as you have contact with the client.

Rule 14.2 describes how to do the waiver. The lawyer must file a written waiver of appearance at least two days prior to the arraignment. The arraignment commissioners will often accept a waiver filed on the court date if the waiver is presented in the courtroom. The waiver form must state that the defendant wishes to waive his presence at arraignment. The waiver should also note that the defendant agrees to appear for all future court dates, and, if he fails to appear, the court could issue a bench warrant and try him in his absence. The form must be notarized. The motion can be written as a two-page motion with the client's affidavit attached to the back or on a single page. Sample waiver motions can be found on the s-drive at S:misc\waivearr.wpd or at S:group d\waive.arr and group d\aff-arr.form.

After the arraignment, the attorney must file a follow-up affidavit from the client stating that he has received his court dates and will appear. The affidavit should be filed with the trial judge. The follow-up affidavit must be filed within 20 days of the arraignment.

A lot of bench warrants can be avoided if you use this procedure. You should always consider it for an out-of-state or out-of-county client. Right now I have a case with a bench warrant that could have been avoided if the client's former lawyer had used a waiver. If you file

a waiver for a client, please drop off a copy for me on the day of the arraignment. Don't let your client go to jail

unnecessarily. Use the waiver allowed under Rule 14.2 and make everyone's life easier. ■

ARIZONA ADVANCED REPORTS

A Summary of Criminal Defense Issues in Volumes 250-251

By Terry Adams
Deputy Public Defender

State v. Terrazas, 250 Ariz. Adv. Rep. 3 (S. Ct. 8-14-97)

This case establishes the standard of proof required to introduce evidence of other bad acts of the defendant. The standard of clear and convincing proof applies to both the commission of the act and that the defendant committed it. Or in other words, sufficient evidence to take to a jury. The court refused to follow the federal standard of preponderance of the evidence. Here

the defendant was charged with theft of a truck. The trial court allowed evidence that property left inside another stolen car was found on the defendant's property, although the other car was not recovered. This was

determined to be insufficient evidence under the clear and convincing standard.

State v. Getz, 250 Ariz. Adv. Rep. 10 (S. CT. 8-14-97)

Defendant charged and convicted of 4 counts of sexual abuse for touching the breasts of a consenting 16 year old female. The trial court ruled that the state need not prove lack of consent in a prosecution under A.R.S. § 13-1404(A). The Supreme Court held that the statute is clear, where the victim/participant is 14, 15, 16 or 17, the state has to prove lack of consent. Here, since the evidence showed consent, the court should have granted the motion for judgment of acquittal. This overrules *State v. Superior Court (Puig)* 154 Ariz. 624 (App 1987).

Trebus v. Davis, 250 Ariz. Adv. Rep.(S. Ct. 8-19-97)

While the defendant was being investigated for child molest, his attorney wrote a letter to the county
(cont. on pg. 9)✉

attorney requesting to meet with him before prosecution was authorized. The attorney also noted that the defendant had exculpatory evidence to present and made a formal request under A.R.S. §21-412 to make evidence available to the grand jury. However, without notice to the defendant or his attorney, the case was presented to the grand jury and the defendant was indicted. The defendant filed motions to remand and to dismiss. Both were denied. The Supreme Court held that the county attorney must inform the grand jury that the defendant has requested to appear or has submitted exculpatory evidence. The grand jury is then free to grant or deny the request, but the decision is for the grand jury, not the county attorney. Here the letter was insufficient to trigger the right because the request must refer to specific exculpatory evidence and what the defendant's testimony would be.

***State v. Lee*, 250 Ariz. Adv. Rep. 25 (S. Ct. 8-26-97)**

The defendant was charged with the murders of a pizza delivery girl and a cab driver, in two separate incidents, and was subsequently sentenced to death. The defendant's motion to sever the counts was denied. The Supreme Court held that the denial was error under *State v. Ives*, but the error was harmless because of the strikingly similar facts of each case, evidence of one would have been admissible in the trial of the other. Also the *Wussler* instruction regarding lesser included offenses was disapproved in *State v. LeBlanc* 186 Ariz. 437(1996). However that is to be given prospective application only, and since these crimes were committed prior to *LeBlanc*, the *Wussler* instruction was appropriate. An aggravating circumstance found was a prior conviction where life or death could be imposed. Specifically each murder was used as a prior to the other. There is nothing in the statute that prevents this. Firing four shots to kill the cab driver when one was sufficient was not enough to show depravity. However the other aggravating factors were sufficient to uphold the death penalty.

***State v. Lee*, 250 Ariz. Adv. Rep. 34 (S.Ct. 8-26-97)**

The defendant was convicted and sentenced to death for the murder and robbery of a convenience store clerk. The Supreme Court held it was permissible to allow a police officer who was uniquely qualified to testify regarding blood splatter evidence. The autopsy photos were not so gruesome as to be inadmissible and their probative value outweighed any prejudice. It was not error to shackle the defendant during trial because of his prior violent convictions and his previous escape attempt. Aggravating circumstances were sufficient to uphold the death penalty.

***State v. Brown*, 250 Ariz. Adv. Rep. 41 (C.A.2, 8-26-97)**

The jury returned a verdict of guilty on both the greater and lesser offenses. After conferring with counsel the court struck the verdict on the lesser, as being surplusage. The preferable course of action would have been to explain the situation to the jury, reinstruct on the law, and allow the jury to deliberate further. However, since the defendant did not object there was no fundamental error. The convictions were for dangerous crimes against children, and the court enhanced the sentences by using each count as a predicate felony for the others. The appellate court determined that offenses committed on different occasions but consolidated for trial, can no longer be used as prior felony convictions for purposes of sentence enhancement.

***State v. Strohson*, 251 Ariz. ADV. REP. 3 (C. A. 1, 9-4-97)**

A defendant is not entitled to a jury trial for misdemeanor assault involving domestic violence even though, if convicted, he would become a prohibited firearm possessor under new federal law.

***In re: Marie G.*, 251 Ariz. Adv. Rep. 15 (C.A.1, 8-26-97)**

The trial court did not abuse its discretion in ordering 10 weekends of detention and promising a no-hearing waiver of detention if urinalysis testing was negative. However a no-hearing procedure is adequate only if it results in a waiver of detention; a more formal process is necessary before waiver of detention can be denied.

***Saucedo v. Superior Court*, 251 Ariz. Adv. Rep. 28 (C.A.1, 9-9-97)**

Proposition 102 which provides for automatic prosecution of certain juveniles as adults can be applied only prospectively, applicable only to crimes alleged to have occurred after its effective date: Dec. 6, 1996.

***Baker v. Superior Court*, 251 Ariz. Adv. Rep. 28 (C.A.1, 9-9-97)**

Proposition 200 which provides for no incarceration for certain drug convictions and codified in A.R.S. § 13-901(A) (Supp. 1997) became effective on Dec. 6, 1996. It does not apply to persons whose offense occurred prior to that date even if the conviction occurred after.

(Cont. on page 10) ■

BULLETIN BOARD

New Attorneys:

Effective November 3, twelve new trial attorneys will be joining the Public Defender's Office (Eight will be assigned to the Trial Division, while the other four will be placed with our Juvenile Division). These attorneys are:

Eric Devany, who has served as a Deputy Public Defender for Mohave County since 1996, will be joining Group C. Eric received his J.D. from Arizona State University College of Law and his B.A. in Philosophy from Pennsylvania State University. He also briefly worked for the Mesa City Prosecutor's Office.

Christopher Doerfler, Group B's law clerk, earned his J.D. from the University of Wisconsin-Madison. He participated in the legal defense program for Dane County Wisconsin while in law school. Chris will stay with Group B.

Cherie Howe graduated from the University of Oregon College of Law, following graduation from A.S.U. with a Bachelor of Arts degree in Political Science. She was employed by the Pinal and Gila Counties' Legal Aid Society for three years before joining the Pinal County Public Defender's Office in 1995. Cherie will be assigned to Group A.

Monique Kirtley, Juvenile law clerk, is a graduate of Arizona State University College of Law and holds a B.A. in U.S. History from the University of North Dakota-Grand Forks. She served an internship with the Arizona State Attorney General's Office. Monique will be assigned to our Mesa Juvenile Office.

Bethanne Klopp-Bryant has been a member of the State Bar of Nevada since 1990. She holds a J.D. from ASU College of Law, a M.F.A. from Bowling Green State University as well as a B.A. in Fine Arts from Michigan State University. She has practiced law with the JAG Corp, working for both the prosecution and defense. Bethanne will join Group C.

Emma Lehner first worked in this office as an intern during the summer of 1995. She earned her J.D. from the University of Wisconsin-Madison and her B.A. in Anthropology from Stanford. Emma has been Group D's law clerk and will be assigned to Group A.

Vicki Liszewski graduated from Arizona State University

College of Law and received her B.A. in History from ASU. Vicki participated in the Maricopa County Public Defender's Clinical Internship program. Vicki will join our Mesa Juvenile Staff.

Karen Morris graduated from the Arizona State University College of Law this May and received her B.S. in Criminal Justice from Northern Arizona University. She clerked at the Federal Public Defender's Office and has been working for Michael Terribile and Marty Lieberman as a law clerk. She will be working at our Durango Juvenile Office.

Noble Murphy received his J.D. from the University of Toledo College of Law. He participated in the University of Loyola-New Orleans College of Law's summer study abroad program. He holds a B.A. from Purdue University. He participated in a Public Defender internship while in law school. Noble will be assigned to Group C.

Catherine Parker received her J.D. from Arizona State University College of Law and a B.S. in Management from ASU. She is a past participant of the MCPD's Clinical Internship program. Catherine has been assigned to our Durango Juvenile Office.

Judy Pesaresi interned with the Public Defender's Office in Carrboro, N.C. She holds a J.D. from the University of North Carolina-Chapel Hill and a B.A. in American Civilization from Brown University. Judy will stay with Group C, where she has been serving as a law clerk.

Leo Valverde participated in the MCPD's Clinical Internship program while working toward his J.D. from Arizona State University College of Law. Leo holds a B.A. in Political Science from Trinity University in San Antonio, Texas. Leo will join Group A.

Attorney Moves/Changes:


Barry Handler, a Group A trial attorney, left the office effective October 31.

Frank Johnson, a trial attorney in Juvenile at Durango, left the office effective October 17.

New Support Staff:

Nathaniel Carr will join Group B as a law clerk effective November 3. He is a graduate of ASU College of Law and participated in the prosecutor's clinic.

Christopher Flores, law clerk, will be assigned to Group A starting November 3. He participated in the MCPD

(cont. on pg. 11) 

Legal Extern Program while earning his degree from ASU College of Law.

Mary Lou Antunez, legal secretary, began working a temporary assignment with SEF effective October 6.

Roselie Abarca, 1st floor receptionist, began a temporary assignment on October 14.

Charlotte Burnside, legal secretary, will be joining Group A effective November 3.

Lisa Kula, Training Administrator, began working in Administration effective October 14.

Support Staff Moves/Changes:

Luke Clesceri, Group C investigator, has relocated to Group A effective November 3.

Ricardo Greth, investigator, with Group A, left the office effective October 24.

Kiera Lebet, legal secretary, has assumed a permanent position with Juvenile/Durango, effective October 20.

Kate Miller, legal secretary, left the office effective October 3.

Thomas Neus, an investigator with Group A, left the office effective October 24.

Tracy Randolph, legal secretary with SEF, left the office effective October 24.

Carmen Soto, office aide, left the office October 17. ■

A GREETING FROM THE NEW TRAINING ADMINISTRATOR

By Lisa Kula
Public Defender Training Administrator

Hello to all MCPD employees! My name is Lisa Kula and I'm the new Training Administrator. I'm very excited about my new position and I hope I can help you with your training needs. I was very impressed by the warmth and interest I have encountered on my quest to meet everybody. I wanted to let you know a little bit about me and my expectations for support staff training.

I have been working in the training/teaching field since obtaining by B.A. in Communications and post graduate work in Communications from Northern Illinois University. I worked as a Technical Trainer/Writer for three years before moving to the Community Colleges to teach Communications. I recently earned my M.A. Ed. in Adult Education and feel that I understand the specific learning needs of the working adult.

Education and training are the cornerstone of a productive workforce. With the rapid changes in technology, and the changing business landscape, there is a need for life long learning. Did you know that the "shelf life" of a MIT graduate's knowledge is approximately two and a half years? Sometimes, it is difficult to keep up with the changes and that is where a comprehensive training program can assist employees.

I am currently working on assessing the particular needs of our employees, so I may provide the training that will be most useful to you. I am open to all suggestions and comments that anyone may have, and hope to establish an open line of communication with all support staff. ■



September 1997 Jury and Bench Trials

Group A

Dates: Start/Finish	Attorney/ Investigator	Judge	Prosecutor	CR# and Charge(s) Class F/M	Result (w/ hung jury, # of votes for not guilty / guilty)	Bench / Jury Trial
9/2-9/2	Hernandez	Mangum	Hernandez	97-02363, Aggravated Assault/ F6	Hung (7-1 not guilty)	Jury
9/9-9/12	Timmer/ Robinson	Hilliard	Levine	97-01154; Trafficking in Stolen Property/F2, 2 priors	Guilty	Jury
9/11-9/26	Farney/ Yarbrough	Baca	Morrison	95-10686, 2nd Degree Murder & Endangerment, Dangerous/ F1 & F6	Guilty on both counts	Jury
9/15-9/23	Farrell/ Jones	Gerst	Sigmond	97-05728, 2 cts. Aggravated Assault, Dangerous/ F3, 5 priors	Not Guilty on both counts	Jury
9/16-9/23	Tosto	Yarnell	Manning	96-11059, Aggravated Assault, Dangerous/ F3, prior and on prob	Guilty	Jury

Group B

Dates: Start/Finish	Attorney/ Investigator	Judge	Prosecutor	CR# and Charge(s) Class F/M	Result (w/ hung jury, # of votes for not guilty / guilty)	Bench / Jury Trial
8/25-9/2	Park/ Corbett	Martin	Brnovich	CR 96-10728 2 Cts. Aggravated Assault, Dangerous/F3	Not Guilty -- Guilty Disorderly Conduct, Dangerous/F6	Jury
9/9-9/10	Klapper/ Kasieta	O'Toole	Luder	CR 97-06292 Agg. Assault/M1	Guilty (Charged as a F6 and tried as a M1.)	Bench
9/9-9/10	F. Gray/ Ames	Hall	Newell	CR 95-09854 2 Cts. Agg. DUI/F4	Guilty	Jury
9/15-9/19	Potter/ Ames	Dougherty	Rea	CR 96-11804 Armed Robbery, Dangerous/F2 Aggravated Assault, Dangerous/F3 Kidnapping, Dangerous/ F2 Theft/F5	Guilty on all counts.	Jury
9/16-9/18	McCullough/ Erb	O'Toole	Luder	CR 97-00847 Poss. of Marijuana/F6	Guilty	Jury

9/22-9/30	Peterson/ Ames	McDougall	Cappellini & Rand	CR 95-07951 Manslaughter/F3 4 Cts. Aggravated DUI/F4	Guilty on all counts.	Jury
9/23-9/24	LeMoine/ Kasieta	Wilkinson	Bustmonte	CR 97-06718 Poss. Crack Cocaine/F4	Not Guilty	Jury

Group C

Dates: Start/Finish	Attorney/ Investigator	Judge	Prosecutor	CR# and Charge(s) Class F/M	Result (w/ hung jury, # of votes for not guilty / guilty)	Bench / Jury Trial
9/2 - 9/9	Levenson	Lewis	Freeman	97-90430 Fel Flight, F5	Guilty of Lesser - Failure to Stop for Police Officer, M2	Jury
9/2 - 9/26	Ronan & Coolidge/ Thomas	Hotham	Shutts & Martinez	95-08782 Murder First Deg./ F1 2 cts. Theft/ F6 2 cts. Miscond Inv. Wpn/ F4 & F6	Guilty on all	Jury
9/8 - 9/10	Leonard	Hendrix	Vick	96-94828 Agg Dr-Lq/Drg/Tx Sub/ F4, Agg Dr-BA .10 or Gtr/F4	Guilty on both	Jury
9/8 - 9/10	Rosier/ Breen	Ishikawa	Cook	96-94026 PODD/F4	Guilty	Jury
9/8 - 9/8	Squires	Lamb Chand. JP	Freeman	97-276/MI Interf w/ Jud. Proc./M1	Not Guilty	Bench
9/9 - 9/24	Fisher/ Thomas	Grounds	O'Neill	97-92107(A) Arm Rob/F2, Kdnp/F2, 2 cnts. Sex Aslt/F2, Agg Aslt/F3, Sex Abuse/F5	Guilty on all	Jury
9/10 - 9/15	Lachemann	Aceto	Vincent	97-91286 1 ct. Child Abuse/F4	Guilty	Jury
9/15 - 9/16	Bingham	Hendrix	Vick	97-91709 Agg Dr-Lq/Drg/Tx Sub/ F4, Agg Dr-BA .10 or Gtr/F4	Guilty on both	Jury
9/15 - 9/22	Schmich & Schumacher/ Moller & Thomas	Araneta	Cook	94-92545 Ct. I, Pub Sex Indcy/ M1, Ct. II, Pub Sex Indc to Minor/ F5, Ct. III, Indec Exp/ M1	Ct. I & II, Not Guilty Ct. III, Guilty	Jury
9/17 - 9/22	Lorenz/ Thomas	Hendrix	Sandler Fuller	97-92366(A) 1 Agg Aslt Dang./ F3 1 Shop Lift/ F6	Guilty on both	Jury
9/22 - 9/23	Corbitt	Hendrix	Scott	Agg Dr-Lq/Drg/Tx Sub/ F4, Agg Dr-BA .10 or Gtr/ F4	Guilty Not Guilty on all Priors	Jury

9/24 - 10/1	Bingham/ Beatty	Ishikawa	Gundacker	96-91308 Agg Dr-Lq/Drg/Tx Sub/ F4, Agg Dr-BAC .10 or Gtr/ F4	Agg DUI-Guilty of Lesser, Leave Scene of Veh Damage Accident Guilty on BAC	Jury
9/26 - 9/26	Shell	Hamblen WMA J.Ct.	Wendtberg	TR97-09487 Agg Dr-Lq/Drg/Tx Sub./ M1 Agg Dr-BA .10 or Gtr/ M1	Not Guilty	Jury

Group D

Dates: Start/Finish	Attorney/ Investigator	Judge	Prosecutor	CR# and Charge(s) Class F/M	Result (w/ hung jury, # of votes for not guilty / guilty)	Bench / Jury Trial
9/2-9/4	Dichoso/ Lincoln	Gerst	Kuffner	CR 97-01732 1 Ct. ATT.. POND/ F5	Guilty	Jury
9/3-9/8	Beckman	D'Angelo	Ainley	CR-95-08268 2cnts. Theft/F4	Guilty	Jury
9/10 - 9/18	Willmott/ Applegate	Lewis	Williams	97-01750; Burg/ F2, Theft/F6	Not Guilty both counts	Jury
9/15-9/15	Dichoso/ Fusselman	Nastro	Tucker	CR 96-11707 1 Ct. Theft/F5 1 Ct. Burglary 2/F3	Dismissed	Jury
9/16 - 9/17	Schreck/ Lincoln	Dunnevant	Echhart	97-04121; 2 cnts. Agg DUI/F4; POM/F6	Not Guilty all counts	Jury
9/22- 9/24	Schaffer	Nastro	Campagnolo	96-05651; 2 cnts. Sale of Crack/F2	Guilty	Jury
9/22-9/23	Silva & Steiner	Sargeant	Astrowsky	CR 97-04500 1 Ct. Sex Abuse over 15/F5	Guilty	Jury
9/22-9/23	Miller	Hyatt	Keyt	CR 96-07878 1 Ct. POND/F4	Not Guilty	Jury
9/24-9/26	Gavin	Schwartz	Armijo	97-01386; Sale Narcotic Drugs/F4; Sale Dangerous Drugs/F2; Resisting Arrest/F6.	Guilty	Jury
9/15-9/17	Brisson	Paddish	Bayardi	97-00020; Agg Assault/ F4	Guilty	Jury
9/24-9/30	Wilson/ Bradley	Gerst	Wendell	97-04951 Armed Robbery/F2	Not Guilty	Jury

Office of the Legal Defender

Dates: Start/Finish	Attorney/ Investigator	Judge	Prosecutor	CR# and Charge(s) Class F/M	Result (w/ hung jury, # of votes for not guilty / guilty)	Bench / Jury Trial
9/24- 10/6/97	Hughes/ Soto	Arellano	Palmer	CR95-01261 Driveby/F2 dangerous 2 Cts.Agg.Asslt./F3 dangerous Endangerment/ F6 dangerous	Not Guilty	Jury
8/4- 9/16/97	Steinle & Keilen/ DeSanta	Bolton	Kemp	CR95-07221 Murder 1, F1 dangerous Consp.to Commit Murder 1/ F1, dangerous	Guilty	Jury

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ARIZONA REVISED STATUTES TITLE 28 — TRAFFIC VIOLATION CARD
EFFECTIVE 10/01/97

TRAFFIC CONTROL DEVICES

Obedience to Police Officer	28-622A
* Obedience to Traffic Control Device	28-644A
* Failure to Stop for Red Light	28-645A3A
* Illegal Right Turn on Red Light	28-645A3B
* Failure to Yield on Left Turn on Red	28-645A3C
* Stop at Flashing Red Light	28-647.1
* Private Property to Avoid Traffic Control Device	28-651

SERIOUS MOVING VIOLATIONS

Failure to Stop at Scene of Injury Accident	28-661A1
Failure to Remain at Scene of Injury Accident	28-661A2
Leaving the Scene -Attended Vehicle Accident	28-662A
-Failure to Stop	28-662A1
-Failure to Remain	28-662A2
-Failure to Stop w/o obstructing traffic	28-662A3
Leaving Scene of Accident - Unattended Vehicle	
-Failure to Stop	28-664A1
-Failure to Leave Required Information	28-664A2
Leaving Scene-Fixture by Roadway	28-665A
- Failure to notify owner	28-665A1
- Failure to show Driver License	28-665A2
Reckless Driving	28-693A

DUI

DUI - Alcohol, Drug, Toxic Vapor or Combination Thereof	28-1381A1
DUI w/B.A.C. of .10 or Higher	28-1381A2
DUI Drugs or Metabolite (13-3401)	28-1381A3
DUI Commercial - B.A.C. .04 or More	28-1381A4
DUI While Suspended for DUI	28-1383A1
Third DUI	28-1383A2
DUI with Passenger Under 15 Years	28-1383A3
Underage Drinking and Driving	4-244.34

SPEED

* Reasonable and Prudent	28-701A
Exceeding 35 mph - school crossing	28-701.02A1
Exceeding limit by more than 20 mph, or over 45 mph - business/residential	28-701.02A2
Exceeding 85 mph	28-701.02A3
* Speed ≤ 65 on 55mph freeway; waste of finite resources	28-702.01A
* Speed > 65 on 55mph freeway	28-702.01C
* Speed not to Impede Traffic	28-704A
Racing/Exhibition of Speed	28-708A

VEHICLE MOVEMENT

* Failure to Drive on Right Side of Roadway	28-721A
* No passing on Right Off Roadway	28-724B
* Overtaking on the Left	28-725
* No Passing 100' from Intersection	28-726A2
* No Passing Zone (Marked)	28-727
* One Way Streets	28-728B
* Drive in One Lane/Unsafe Lane Change	28-729.1
* Obedience to Lane Direction Markings	28-729.3
* Following too Close	28-730A
* Driving Across/Upon Median	28-731
* Failure to Drive on Right Side or Failure to Drive on Right Side of Divided Hwy.	28-731

POSITION TO MAKE TURNS

* Improper Position - Right Turn	28-751.1
* Improper Position - Left Turn	28-751.2
* Left Turn-One Way Street	28-751.2
* Obedience to Turn Signs/Markers	28-751.3
* Left Turn from other than Left Turn Lane	28-751.4A
* Improper Driving in Two-Way Left Turn lane	28-751.4B
* Unsafe Starting of Parked Vehicle	28-753
* Unsafe Turning Mid Block	28-754A
* Signal Before Turning	28-754A
* Failure to Signal Before Stop or Slow	28-754C

RIGHT OF WAY

* Car on Right-Open Intersection	28-771A
* Yield to Right-"T" Intersection	28-771A
* Turning Left at Intersection	28-772
* Yield from Stop Sign	28-773B
* Yield from a Private Drive	28-774
* Yield to Emergency Vehicles	28-775A1
* Failure to Drive to Right Curb for Emrg. Veh.	28-775A2
* Failure to Remain Stopped for Emrg. Veh.	28-775A3
* Following Fire Truck Within 500 Feet	28-775B

PEDESTRIANS

* Pedestrian in Crosswalk	28-792A
* Passing Veh. Stopped for Ped.	28-792B
* Crossing at other than Crosswalk (Yield to Vehicles)	28-793A
* Jaywalking Between Signal Lights	28-793C
* Walking in Street where Sidewalk Provided	28-796A
* Hitchhiking on Roadway	28-796C
* Pedestrian "Wait" Signal	28-646A2

SCHOOL ZONES

* Speed in Excess of 15 MPH	28-797E
* Stop for Pedestrian in Crosswalk	28-797G

BICYCLES

* More than One Person on Bike	28-813B
* Clinging to Vehicles	28-814
* Ride on Right Side of Road	28-815A
* Bicycle Lamps Required	28-817A
* Brakes Required	28-817C

MOTORCYCLES

* MC & ATV Rider and Passenger to Have Seat	28-892
* Depriving MC Full Use of Lane	28-903A
* MC Passing in Same Lane Occupied by Vehicle	28-903B
* MC Between Lanes/Adjacent Rows of Vehicles	28-903C
* More than 2 Abreast in One Lane	28-903D
* Brakes Required on MC & ATV	28-952A2
* Muffler Required	28-955.01A
* Helmet/Eye Protection/Windshield	28-964A
* Rearview Mirror, Seat & Footrest	28-964B
* Handlebars - Shoulder Height	28-964C
* Passenger to Have Own Seat, Footrest and Handrails	28-964B

INSURANCE

* No Mandatory Insurance	28-4135A
* Failure to Produce Evid. of Fin. Responsibility 10/1/97 through 12/31/97	28-4136B
Beginning 1/1/98	28-4135C
* Displaying Plates Suspended for Fin. Respons.	28-4139A

LEGEND: * Civil Violation
** Civil or criminal violation
If no asterisk, the violation is criminal.

STOPS AND MISC. VIOLATIONS

* Vehicles Using Bike Lane	28-815D
* Stop at Railroad Crossing Signal	28-851A
* Driving Thru/Around Closed Railroad Gate	28-851B
* Bus, Explosive and Flammable Cargo	
Stop at RR Crossing	28-853A
* Stop Sign	28-855B
* Yield Sign	28-855C
* Stop from Alley or Driveway	28-856.1
* Yield to Pedestrian from Alley or Driveway	28-856.2
* Yield Upon Entering Road from Alley/Drive	28-856.3
* Failure to Stop - School Bus w/Displayed Sign	28-857A1
* Failure to Remain Stopped for School Bus	28-857A2
* Unsafe Backing	28-891A
* Driving with Obstructed View	
(Passenger/Load Obstruction)	28-893A
* Crossing Fire Hose	28-897
* Placing Hazardous Materials on Road	28-898A
Throwing or Dropping an Object	
from an Overpass	13-3720A
* Driving on a Sidewalk	28-904A
* Door as a Traffic Obstruction	28-905
* Changing Height of Moving Vehicle	
(Veh. Speed 15 MPH or More)	28-906
Traffic Viol. While Transporting Had. Materials	28-1523
Permitting Unlawful Operation	28-1524
Aiding and Abetting a Violation	28-1551
Illegal Citation Cancellation	28-1560A
Failure to Stop for Police Officer	28-1595A
Operator Refused to Provide ID	28-1595B
Non-Operator Refused to Provide ID	28-1595C
Operation of Vehicle in Violation of	
Declared Gross Weight	28-5437
Dumping Refuse, Rubbish or Debris on Hwy.	28-7056A

VEHICLE EQUIPMENT

* Child Passenger Restraint	28-907A
* Seat Belts Required-Lap and Shoulder	28-909A1
* Seat Belts Required-Lap Belt	28-909A2
* When Lighted Lamps Required	28-922
* Two Head Lamps Required	28-924A
* Height of Headlamps	28-924C
* Red Tail Lamps Required	28-925A
* Height of Tail Lamps	28-925B
* Brake Lamps Required	28-927
* Rear Stop Light-Red/ Rear Signal-Amber	28-931C1
* Backup Light and License Plate Light-White	28-931C2
* Dim Lights from Front	28-942.1
* Dim Lights from Rear	28-942.2
* Brakes Required	28-952A1
* Trailer Brakes Required	28-952A3
* Horn Required	28-954A
* Muffler Required	28-955A
* Muffler Cutout or Bypass Prohibited	28-955B
* Mirror Required	28-956
* Windshield Wipers Required	28-957A
* Windshield Required	28-957.01A
* Rear Fender Splash Guards	28-958.01A
* Gas Cap Required	28-965
* Vehicle Equipment Not In Good	
Working Order	28-981.1
* Unsafe Vehicle On Highway	28-981.2

LOADS

* Red Light on 4 ft. to Rear At Night	28-935A
* Red Flag on 4 ft. to Rear During the Day	28-935B
* Over Width, More than 8 ft.	28-1093A
* Vehicle Over Height of 13' 6"	28-1094A
* Vehicle Over 40' Long	28-1095A
* Projecting Load-Passenger Vehicle	28-1096
* Front Projecting More Than 3'	28-1097A1

* Rear Projecting More Than 6'	28-1097A2
* Spilling Load on Roadway	28-1098A
* Load or Cover Insecure	28-1098B
**Exceeding Single Axle Load Limit	28-1099A
**Single Axle Weight Over 20,000 lbs.	28-1100A1
**Tandem Axle Weight Over 34,000 lbs.	28-1100A2
**Vehicle Combination Weight Over 80,000 lbs.	28-1100A3
**Consecutive Axles' Weight Violation	28-1100A4
**Axle Limit Violation	28-1100E
**Variable-Load Axle Violation	28-1100F
Refusal to Stop/Submit to Weighing	28-1102C1
Refusal to Unload	28-1102C2
* Space Between Towed Vehicles Exceeds 15 ft.	28-1108A
* White Flag Required on Towing Connection	28-1108B
* Unregistered Tow Truck	28-1108D

DRIVERS LICENSE

* No Arizona Driver's License	28-3151A
* No Motorcycle Driver's License	28-3151A
* Permittee Cannot Operate Motorcycle on	
Controlled-Access Highway	28-3156C1
* Permittee Cannot Operate Motorcycle from	
Sunset to Sunrise	28-3156C2
* Driver's License not in Possession	28-3169A
Suspended/Revoked License (Pts. or FR)	28-3473A
Suspended/Revoked License (DUI or Admin PerSe)	28-3473B
Susp. License MVD/Court Action	28-3473C
Permit Unauthorized Minor to Drive	28-3474
* Permit Unauthorized Person to Drive	28-3475
Possession of Canceled or Fictitious DL	28-3478.1
Lending DL to Another	28-3478.2
Using Another's DL	28-3478.3
Permit Unlawful Use of DL	28-3478.5
Restricted Driver's License	28-3480
No Commercial Driver's License/	
No CDL of Appropriate Class	28-3481A

VEHICLE REGISTRATION

* Failure to Change Name/Address for DL	
or Registration	28-448A
* Mutilated Plates	28-2008
* Failure to Transfer Title Within 30 Days	28-2058A2B
Resident Registration Out of County	
Criminal (evade emissions control)	28-2152A
Civil	28-2152C
* Registration Not in Vehicle	28-2158C
Expired Out-of-State Registration	28-2322
* Rear License Plate Required	28-2354A1
* Rear or Front & Rear Plates Required	28-2354A2
* Display Legible Plate Until Canceled/Revoked	28-2354B
* Swinging Plate	28-2354B1
* Plate Not 12 + Inches From Ground	28-2354B2
* Plate Not in Visible Position	28-2354B3
Knowingly Display Fictitious Plates	28-2531B1
Knowingly Permit Use of Plate by	
Another Person	28-2531B2
Refused to Surrender Plate	28-2531B3
Operates Vehicle Without Emissions Device	28-2531B8
Operates a Vehicle Certified as	
Non-operational and Without FR Proof	28-2531B9
Atler/forge permanently disabled placard	28-2531B10
* No Current Registration	28-2532A
* No Current Moped Registration	28-2532A
* Resident with Out-of-State Plates	28-2533A



Plan to attend

BULLETS, BLOOD AND DEATH

December 11 & 12

Quality Hotel and Resort
Phoenix, AZ

A Death Penalty Seminar
Sponsored by the Maricopa County Public Defender's Office

(Brochures arriving November 5)

Thursday December 11

AM - Ballistics and
Gunshot Wounds

PM - Picking a Jury in
a Death Penalty Case

Friday December 12

AM -Breakout Sessions:
Mitigation, Preserving the Record
Gangs as Mitigation

PM - Blood Spatter Evidence:
How to Understand it
How it is Used